



REMARKS

The Office Action of February 22, 2005, is discussed in detail below.

Election of Species and Disposition of Claims

In the Office Action dated October 22, 2004, the Examiner requested that Applicant elect a single disclosed species from among Species 1, Species 2, and Species 3 for examination in the event that no generic claim is finally held to be allowable. In Applicant's reply dated November 15, 2004, Applicant elected Species 1 and identified claims 1, 2, 3, and 7 – 11 as being readable thereon.

Applicant notes, however, that claims 4 – 6 are also readable on Species 1. Claims 4 – 6, like claims 2 and 3, are directed at specific chemical compositions of chalcogenide materials suitable for use in Applicant's invention. The compositions identified in claims 2 – 6 are applicable to all three species identified by the Examiner in the Office Action dated October 22, 2004. (See p. 11, lines 1 – 15 of Applicant's specification.) Applicant neglected to associate claims 4 – 6 to Species 1 in Applicant's reply dated November 15, 2004 and respectfully asks the Examiner to reconsider the withdrawal of these claims.

Claim Amendments

Applicant has amended claim 1 to recite that one of the terminals in electrical communication with the chalcogenide material has a circumferential shape. Applicant has also added a new claim 28 directed to an embodiment in which the terminal having a circumferential shape has an annular shape. Support for the amendment to claim 1 and new claim 28 may be found, for example on p. 24, lines 8 – 10 ("If the pore is cylindrical, the intermediate terminal **260** is

generally annular in shape. If the pore is non-cylindrical, the intermediate terminal **260** is generally circumferential in shape.”) and p. 36, lines 12 – 14 (“...electrical terminals having shapes, including circumferential or non-annular, suitable for providing electrical energy to non-cylindrical pores.”) of Applicant’s specification.

Claim Rejections – 35 USC 102

From Paragraph 4 of Office Action

Claims 1 – 3 and 8 - 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Lowrey (US 2002/0036931).

US 2002/0036931 to Lowrey (“Lowrey”) discloses a chalcogenide programmable memory device (Figs. 1A & B, and 2J”) comprising a chalcogenide material (290), a first terminal (130a), a second terminal (130b) and a third terminal (300) wherein two portions of chalcogenide material can be programmed into different states.

Applicant’s amended claim 1 recites that one of the three terminals of Applicant’s invention has a circumferential shape. None of the three terminals shown in the device of Lowrey has a circumferential shape. None of the terminals of the device of Lowrey surrounds the chalcogenide material; instead, each terminal contacts only a portion of the circumference of the chalcogenide material. Consequently, Applicant believes that amended claim 1 is patentable over Lowrey and that this rejection is overcome.

Applicant respectfully requests that this rejection be removed and respectfully submits that claims 1 – 3 and 8 – 11 are allowable. Applicant also believes that new claim 28 is allowable as well. If the Examiner grants Applicant’s above request to include claims 4 – 6 with the elected invention, Applicant further believes that these claims are allowable.

SUMMARY

The remaining claims in the application are claims 1 – 3 and 8 – 11. Applicant has further stated that claims 4 – 6 are properly associated with the elected invention and has respectfully requested that these claims be reinstated. In view of the above amendments and remarks, Applicant believes that the rejection of claims 1 – 3 and 8 – 11 has now been overcome and that these claims are allowable over the reference cited by the Examiner. Applicant further believes that withdrawn claims 4 – 6, if reinstated, are allowable over the reference cited by the Examiner. Applicant respectfully requests withdrawal of all outstanding rejections and respectfully submits that the application stands in condition for allowance. Should the Examiner have any questions or suggestions regarding this amendment, the Examiner is respectfully asked to contact Applicant's representative at the telephone number or email address listed below.

Respectfully submitted,



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